



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,669	01/24/2000	Branko Kovacevic	0100.9901410	6121

34456 7590 12/31/2002

TOLER & LARSON & ABEL L.L.P.
PO BOX 29567
AUSTIN, TX 78755-9567

EXAMINER

BRITT, CYNTHIA H

ART UNIT	PAPER NUMBER
----------	--------------

2133

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/489,669

Applicant(s)

KOVACEVIC ET AL.

Examiner

Cynthia H. Britt

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1 – 45 are presented for examination.

Specification

The objections to the title, abstract, and specification are withdrawn in view of the amendment received October 9, 2002.

Response to Arguments

Applicant's arguments filed October 9, 2002 have been fully considered but they are not persuasive. Applicant states several times throughout the response that the office action (paper 5) indicates that Nuber et al. U.S. Patent No. 5,742,623 teaches *dynamic* enablement of error detection. The office action does not use the phrase "dynamic enablement" at all, but neither does the specification of the current application use the term dynamic or dynamically.

The applicant's argument that the claims have been "*amended to include the term "dynamically" in order to clarify the fact that detection of a condition that identifies the error is dynamically enabled*" does not define or explain the term "dynamically enabled". This statement was used in reference to claims 1, 20, 25, and perhaps to claim 12. Under the section titled **Rejections under 35 U.S.C. 103** the first paragraph begins by discussing claim 12 and then switches to reference claim 25. This could be a typographical error, however the above statement cited by applicant in paper 6, is regarded as unclear since it is not explained or defined in the specification or in paper 6.

As per the applicant's argument that "claim 3 recites that the packet stream being checked for scrambling is a packetized elementary stream (PES) as opposed to a transport packet", Nuber explains a transport packet by stating that "Multiplexing according to the MPEG -2 standard is accomplished by packaging raw elementary streams such as coded video and audio into packetized elementary stream (PES) packets which are then inserted into transport packets." (column 1 lines 64-67) Therefore the transport packets include the PES as required by claim 3 of the current application.

As per claim 21, Webster's defines rate as " a fixed ratio between two things, a quantity, amount, or degree of something measured per unit of something else" therefore 'determining a continuity error rate based upon a continuity discrepancy count and a packet count' is according to the above definition. However, Nuber discloses keeping track of continuity errors and maintaining a continuity discrepancy count and a packet count in order to keep track of continuity errors (column 4 line 53 through column 5 line 6, column 6 line 67 through column 7 line 6, column 16 line 8 - 48).

As per claims 26,27 and 29, Nuber et al. teach that the syntax and semantics of the MPEG -2 transport stream are defined in the International Organization for Standardization, ISO/IEC 13818-1. Nuber et al also teach using packetized elementary streams of video data which are transmitted according to the standard and error detection is provided for the syntax errors including fixed bit patterns, value ranges, previous packet numbering or sequencing, and non repetition of packets (column 1 lines 55-63, column 9 line 21 through column 12 line 42). Nuber et al. also discloses using a

Art Unit: 2133

pointer to keep track of values such as timestamps packet length (column 18 lines 37-66) and continuity (based on previous packet number or count - column 16 line 8 - 48)

As per claims 12 and 15, Nuber et al. disclose using pointer registers to indicate errors (see table 1 and column 18 lines 64-66).

As per claim 32, Nuber et al. disclose a decoder for receiving error indications in video data (column 3 lines 5-14, claims 18-33).

Therefore the rejections of claims 1-45 are maintained as stated in paper 5.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 12, 20, and 25, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The dependent claims 2-11, 13-19, 21-24, and 26-31, inherit the problems of the independent claims. The term "dynamically enabling detection" is not clearly defined in the specification. The term dynamic or dynamically is not mentioned in the specification. The examiner suggests using terminology consistent with the specification to claim the applicant's invention. However, on page 10 (and other pages) of the specification, enabling is discussed with reference to the registers. Webster's defines enable as "to provide with means or opportunity, or to make possible, practical or easy". Webster's defines dynamic as "marked by

Art Unit: 2133

continuous and productive activity and change". These broad definitions leave room for broad interpretations of these claims and therefore render the claims indefinite.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia H. Britt whose telephone number is 703-308-2391. The examiner can normally be reached on Monday - Thursday 6:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 703-305-9595. The fax phone numbers

Art Unit: 2133

for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Cynthia Britt
Examiner
Art Unit 2133

CHB
CHB
December 28, 2002


ALBERT DECADY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100